



Botswana

Country Reports on Human Rights Practices - [2001](#)

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Botswana is a longstanding, multiparty democracy. Constitutional power is shared between the President and a popularly elected National Assembly. The House of Chiefs, representing all of the country's major tribes and some smaller ones, has no legislative power but may offer its views to both the President and National Assembly on legislation. Festus Mogae became President in 1998 and continued to lead the Botswana Democratic Party (BDP), which has held a majority of seats in the National Assembly continuously since independence. In 1999 elections generally regarded as largely free and fair, despite initial restrictions on opposition access to radio and press reports of ruling party campaign finance improprieties, the BDP increased its majority in the National Assembly and elected President Mogae to his first full term. The Government generally respects the constitutional provisions for an independent judiciary in practice.

The civilian Government exercises effective control over the security forces. The military, the Botswana Defense Force (BDF), is responsible for external security only, although it does assist with antipoaching activities along the country's borders. The Botswana National Police (BNP) are responsible for internal security. Members of the security forces, in particular the police, occasionally committed human rights abuses.

The economy is market oriented with strong encouragement for private enterprise, and has achieved rapid sustained real per capita economic growth since independence. Nearly 50 percent of the population of approximately 1.7 million is employed in the informal sector, largely subsistence farming and animal husbandry. Rural poverty remains a serious problem, as does a widely skewed income distribution. Per capita gross domestic product increased to \$3,486 (approximately 22,500 pula), according to 2000 World Bank figures. Diamond exports provided over two-thirds of the country's export income and much of the revenue of the Government, which owned half of a company engaged in the production of diamonds from existing mines.

The Government generally respected the human rights of its citizens; however, problems continued in several areas. There were reports that the police sometimes beat or otherwise mistreated criminal suspects in order to obtain evidence or coerce confessions. The authorities took action in some cases against officials responsible for such abuses. Prison conditions were poor, with overcrowding the major concern, although efforts to address the problem have made moderate progress. In many instances, the judicial system did not provide timely fair trials due to a serious increasing backlog of cases. The Government continued to dominate domestic broadcasting and limited freedom of the press. Violence against women remained a serious problem, and women continued to face legal and societal discrimination. Some citizens, including groups not numbered among the eight "principal tribes" of the Tswana nation, the majority ethnic group, still claimed not to enjoy full access to social services and, in practice, remained marginalized in the political process. Trade unions continued to face some legal restrictions, and the Government did not always ensure that labor laws were observed in practice.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution explicitly prohibits such practices, and the Government generally respected this prohibition in practice; however, instances of abuse occurred. There were reports that police sometimes beat persons and used intimidation techniques in order to obtain evidence or elicit confessions. However, in general beatings and other forms of extreme physical abuse were rare. In some cases, the authorities took disciplinary or judicial action against persons responsible for abuses. While coerced confessions are inadmissible in court, evidence gathered through coercion or abuse may be used in prosecution (see Section 1.e.).

There were reports that BDF soldiers at the Dukwe refugee camp beat and abused Dukwe residents (see Section 2.d.). One refugee applicant claimed that BDF soldiers beat him in December 2000 for allegedly stealing a bag of sugar. The refugee applicant received medical treatment for his injuries. The Acting Station Commander at Dukwe stated that his office is investigating the case, but no action was taken against the officers involved by year's end.

Some international nongovernmental organizations (NGO's) reported that government game wardens abused the Basarwa (Bushmen) in the Central Kalahari Game Reserve (CKGR); however, local NGO's dispute these reports (see Sections 2.d. and 5).

Customary courts continued to impose corporal punishment sentences in the form of lashings on the buttocks, generally against young offenders in villages for crimes such as vandalism, theft, and hooliganism.

Prison conditions remained poor. A 1999 report by the Gaborone Prison Visiting Committee (GPVC) cited "appalling" conditions in prisons, and these conditions largely remained unchanged during the year. With the country's high incidence of HIV/AIDS and tuberculosis, prison overcrowding was a serious health threat; HIV/AIDS testing and U.N. Development Program (UNDP) peer counseling was available to all prisoners. During the year, there were reports that some prisoners died in custody from HIV/AIDS-related illnesses. Men are held separately from women, and juveniles are held separately from adults; however, pretrial detainees are held in the same facilities as convicted prisoners.

The 23 prisons across the country have a capacity of more than 4,000 inmates but held 6,042 at year's end. To alleviate overcrowding, the Government constructed two new prisons. Both prisons were completed in October; however, one is not expected to open until April 2002. Construction of a third prison for male juvenile offenders was delayed due to lack of funds, but is scheduled to begin in 2002. In 2000 Parliament passed a bill that gave the Prison Commissioner authority to release terminally ill prisoners and prisoners in the last 12 months of their sentences (under previous law, the Commissioner only could grant an early release to prisoners in the last 6 months of their sentences). The bill also granted the Commissioner authority to allow citizen prisoners with sentences of 12 months or less to perform "extramural" labor. Foreign prisoners are required to serve out their entire sentences. By year's end, the Government had released more than 400 prisoners under the program.

The Commissioner of Prisons ordered full investigations into the management and conditions of prisons covered in the 1999 GPVC report. A 2000 report by the Botswana Prisons Service to the Commissioner reportedly denied responsibility for the conditions; however, the report still had not been released publicly by year's end. The GPVC report cited the suspicious deaths in prison of two inmates in 1999. The Commissioner stated that a post-mortem examination conducted by medical authorities in 1999 supported prison officials' statements that Boitumelo Nthoiwa died of pneumonia and Andrew Molefe died after taking an illegal substance smuggled in by another inmate. Local human rights organizations have not challenged the Government's explanation in either case.

The Prisons Act, which covers both prison officials and prisoners, makes it illegal for prison officials to mistreat prisoners. When there is an allegation or suspicion of mishandling of prisoners by prison officials, the Department of Prisons is required to forward the case to the police for investigation. In 2000 the Minister of Presidential Affairs and Public Administration stated that stiff penalties would be imposed on prison officials who treat inmates improperly. Three prison officials appeared before a magistrate in 2000 for alleged abuse of prisoners in previous years. In March the magistrate acquitted two of the officials; the magistrate previously had discharged the third official.

The Prisons Act provides for a governmental visiting committee for each prison, the members of which are

appointed by the Minister of Labor and Home Affairs. Members of these committees serve 1-year terms and must visit their prison four times within their first term and issue a report both to the Commissioner of Prisons and the Minister of Labor and Home Affairs. These reports normally are not released to the public. During the year and in 2000, the committees visited each prison every 3 months. The committees issued a report in December 2000, and are expected to issue another report in early 2002.

While the Prisons Act grants relatives, lawyers, magistrates, and church organizations the right to visit prisoners for "rehabilitative purposes," the Commissioner of Prisons has the authority to decide whether domestic and international human rights organizations may visit. In practice the Commissioner generally does not allow such visitations; however, some local human rights organizations have been granted access to visit specific prisoners. During the year, the Botswana Center for Human Rights (BCHR) was permitted to make selected prison visitations to Mariette Bosch, a South African woman sentenced to death for the murder of Mary Wolmarans, the wife of the man Bosch later married. The BCHR, as well as family members, were denied access to Bosch shortly before her execution, since the law does not allow contact with a prisoner within 48 hours of his or her execution. Neither her family nor the BCHR were informed of Bosch's execution until after it occurred. The secrecy surrounding Bosch's execution led to a government-owned Botswana Television documentary, but the Director of Information and Broadcasting prevented its broadcast (see Section 2.a.).

d. Arbitrary Arrest, Detention, or Exile

The Constitution prohibits arbitrary arrest and detention, and the Government generally respects these prohibitions.

Suspects must be informed of their legal rights upon arrest, including the right to remain silent, to be allowed to contact a person of their choice, and generally to be charged before a magistrate within 48 hours. A magistrate may order a suspect held for 14 days through a writ of detention, which may be renewed every 14 days. Most citizens charged with noncapital offenses are released on their own recognizance; some are released with minimal bail. Detention without bail is highly unusual, except in murder cases, where it is mandated. Detainees have the right to hire attorneys of their choice, but in practice most are unable to afford legal counsel. However, poor police training and poor communications in rural villages make it difficult for detainees to obtain legal assistance, and authorities do not always follow judicial safeguards. The Government does not provide counsel for the indigent, except in capital cases. The BCHR provides free legal services, but its capacity is limited. Another NGO, the University of Botswana Legal Assistance Center, provides free legal services in civil, but not criminal, matters. Constitutional protections are not applied to illegal immigrants, although the constitutionality of denying them due process has not been tested in court.

Pretrial detention has been prolonged in a large number of cases. In Gaborone Central Prison, the average wait in prison before trial is 1 year. The Government attempted to alleviate the backlog of cases by temporarily hiring more judges and held a referendum in November in which the voters authorized amending the Constitution to raise the retirement age of judges from 65 to 70; however, several magistrates resigned during the year.

The Government sometimes held newly arrived refugees and asylum seekers in local jails until they could be interviewed by the Botswana Council for Refugees (BCR) or the U.N. High Commissioner for Refugees (UNHCR) (see Section 2.d.). Once persons were granted refugee status, the Government transferred them to the Dukwe Refugee Camp. By year's end, the Government's construction of an internment center for illegal immigrants almost was completed; the center is expected to house up to 504 immigrants awaiting repatriation. However, even with the completion of this new facility, refugees still may be housed first in local jails and then in Dukwe. The Government detained five new refugees from Namibia's Caprivi Strip, deemed fugitives by the UNHCR, in protective custody at Mahalapye Prison; they were transferred from Dukwe after they committed criminal offenses while at the camp, despite a request from the Namibian Government that the five be repatriated.

The law prohibits forced exile, and the Government does not use it in practice.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the Government generally respects this provision in practice.

The judiciary consists of both a civil court (including magistrates' courts, a High Court, and a Court of Appeal) and a customary (traditional) court system.

The law provides for the right to a fair trial; however, the civil courts remained unable to provide for timely, fair trials in many cases due to severe staffing shortages and a backlog of pending cases. Most trials in the regular courts are public, although trials under the National Security Act (NSA) may be held in secret. Those charged with noncapital crimes are tried without legal representation if they cannot afford an attorney. As a result, many defendants may not be informed of their rights in pretrial or trial proceedings.

In 1999 a High Court judge declared a mistrial in the case of two Basarwa (Bushmen) men who had been convicted in 1995 of a murder that occurred the same year and were awaiting execution (see Section 5). A human rights group claimed that the two did not understand the language used at the trial and that translations were poor. It also questioned whether the accused understood their rights, the confessions they signed, or the charges against them, and noted that attempts by the men to change their court-appointed lawyers had been disregarded. Ruling that the two had been deprived of their constitutional rights, the judge ordered a new trial, which was ongoing at year's end.

Most citizens encounter the legal system through the customary courts, under the authority of a traditional leader. These courts handle minor offenses involving land, marital, and property disputes. In customary courts, the defendant does not have legal counsel, and there are no precise rules of evidence. Tribal judges, appointed by the tribal leader or elected by the community, determine sentences, which may be appealed through the civil court system. The quality of decisions reached in the traditional courts varies considerably. In communities where chiefs and their decisions are respected, plaintiffs tend to take their cases to the customary court; otherwise, persons seek justice in the civil courts.

There were no reports of political prisoners.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence

The Constitution prohibits such actions, and the Government generally respects these prohibitions in practice.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and the Press

The Constitution provides for freedom of speech and of the press, and the Government generally respects these rights in practice; however, the Government limited freedom of the press and continued to dominate domestic broadcasting. The Government censored stories or news sources that it deemed undesirable.

The Government's Botswana Press Agency (BOPA) provides most of the information found in the media owned and operated by the Government--the free Daily News newspaper, Radio Botswana, which broadcasts nationally to most of the country, and Botswana Television (BTV). News coverage in the state-owned media focused on the activities of government officials and supported government policies and actions. The Daily News also publishes general coverage of current events and issues and includes a second front page in Setswana, the most commonly spoken tribal language.

The independent press is small but growing and has a long tradition of vigorous, candid, and unimpeded discourse. It actively covers the political arena and frequently is critical of the Government and the President. The circulation of privately owned print media continues to be limited mostly to the main cities and towns. At year's end, seven privately owned weekly newspapers were published in Gaborone and distributed to the country's main cities and towns. One privately owned weekly newspaper was published in Francistown, the country's second-largest city. A total of nine privately owned magazines were published monthly. These publications reported and editorialized without fear of closure.

Government officials sometimes complained of bias in the private press. However, government officials and other public figures have recourse to the courts if they believe that they have been libeled. Libel is a civil law matter; there are no criminal libel laws. In April the Vice President filed a libel suit against the Botswana Guardian and the Midweek Sun newspaper, which was pending at year's end.

In April after a series of negative press stories about government officials, the Government directed all government agencies and parastatals to refrain from advertising in the Botswana Guardian and its sister newspaper, the Midweek Sun. While officials initially claimed that the decision was solely a financial one, the officials admitted in court that the decision to ban advertising was meant to have a punitive nature during a lawsuit brought by the newspapers. On September 17, the High Court overruled the decision to ban advertising and ordered the Government to pay the newspapers' legal fees; however, the Court's decision on whether depriving the newspapers of advertising revenue was an unconstitutional suppression of speech and

of the press was pending at year's end.

Radio remained the most important medium of public communication; the circulation of privately owned print media continued to be limited mostly to the main cities and towns. In past years, the Government monopolized domestic radio broadcasting; however, two private radio stations, Yarona FM and Gabz FM, also broadcast. Both broadcast in 5 of the country's 10 largest cities; state-owned radio continued to be the only domestic radio service broadcasting to the rest of the country. Both private radio stations have a news component to their programming, with no discernible policy of supporting a particular political party. The law provides for the issuance of broadcast licenses to private companies and provides copyright protection of broadcast material; it also mandates the establishment of a National Broadcast Board, which grants broadcast licenses. In 2000 the Board held its first meeting at the Botswana Telecommunication Authority (BTA) offices in Gaborone.

In 2000 the Government opened BTV amid skepticism from the public and some parliamentarians over delays and overspending. BTV began broadcasting with technical and programming assistance from the British Broadcasting Corporation, and an emphasis on the Setswana language service. Transmission extends south from Gaborone to Lobatse, north to Serowe and Francistown, and is scheduled to be available throughout the country within a few years.

The debut of BTV generated considerable discussion among members of the public, parliamentarians, and government officials about whether its status as a government-owned station would interfere with its ability to function independently, especially with respect to reporting the news. During its opening ceremony in 2000, the Acting Minister for Presidential Affairs and Public Administration stated that editorial policies of the station would not be subject to government influence; however, according to newspaper reports in April, the Director of Information and Broadcasting censored the showing of a BTV documentary on the execution of Mariette Bosch, which caused BTV News Director Chris Bishop to resign in protest (see Section 1.e.). BTV chief executive officer Oshinka Tsiang also resigned, citing unjustified government interference with BTV administration (he later rejoined BTV). In 2000 the Government criticized BTV management for reporting on the eviction of squatters by the Ministry of Lands and Housing. A Permanent Secretary in the Office of the President responded by convening a press conference on the private Yarona FM radio station and stating that it was important for BTV to broadcast news that promoted government policies and not reports that "encourage trouble and criticize the Government."

Despite calls for the privatization of BTV after it began operations in 2000, the Government announced in December 2000 that BTV, Radio Botswana, the Daily News, and BOPA would remain under government control. The opposition Botswana Congress Party has criticized government control over these media and has urged that they be privatized or turned into parastatals.

The privately owned Gaborone Broadcasting Company (GBC) broadcasts mostly foreign-made programming and is the only other television station operating in the country. GBC broadcasts reach viewers only in the capital area.

Independent radio and television broadcasts from neighboring South Africa are received easily. A private analog television service from South Africa was discontinued in 2000 when the company scrambled the signal and required viewers to pay to receive the service. Satellite television from a South African-based company is available readily, although its cost prevents many persons from subscribing to the service.

During the 1999 election campaign, opposition candidates initially had limited access to state-owned media, including state-owned radio, which was the only domestic radio service and the sole domestic source of news for most of the rural population. During the first part of the campaign season, the state-owned media gave opposition candidates less news coverage than ruling party candidates. When opposition politicians complained about this, the Government initially countered that the activities of ministers and other government figures were inherently more newsworthy and therefore deserving of more coverage. However, the Government subsequently changed its policy, and during the latter part of the election campaign season the state-owned media gave balanced news coverage to the main opposition parties and included stories about the smaller political parties as well. Opposition leaders expressed the view that government media practices seriously disadvantaged opposition parties relative to the ruling party during the election campaign.

On occasion the Government has taken steps, under loosely defined provisions of the National Security Act, to limit the publication of information that in its view impinged on national security; however, there were no such incidents during the year.

Internet access was spreading quickly. The Government did not restrict e-mail or Internet usage. Four Internet service providers (ISP's) are available to the domestic market: Three of them are private companies, and one, Botsnet, is the commercial arm of the parastatal Botswana Telecommunications Corporation (BTC). While

private ISP's were allowed to operate, they did so at a competitive disadvantage, due to the larger bandwidths dedicated to Botsnet. In December 2000, the BTA ordered the BTC to make leased lines available equally to private ISP's and Botsnet. In March after BTA threatened a lawsuit, the BTC agreed to provide the leased lines.

The Government does not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for the freedoms of assembly and association, and the Government generally respects these rights in practice.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respects this right in practice. The Constitution provides for the suspension of religious freedom in the interests of national defense, public safety, public order, public morality, or public health. However, any suspension of religious freedom by the Government must be deemed "reasonably justifiable in a democratic society."

All religious organizations must register with the Government. To register a group submits its constitution to the Ministry of Home Affairs. After a generally simple bureaucratic process, the organization is registered. There are no legal benefits for registered organizations. Unregistered groups are potentially liable to penalties including fines up to \$155 (1,000 Pula), up to 7 years in jail, or both. Except for the Unification Church, there is no indication that any religious organization ever has been denied registration.

In 1984 the Unification Church was denied registration by the Ministry of Home Affairs on the public order grounds stipulated in the Constitution. The Government also perceived the Unification Church to be anti-Semitic and denied it registration because of another constitutional provision that protects the rights and freedoms of individuals to practice their religion without intervention. In the intervening 17 years, the Unification Church has petitioned the offices of the President and Vice President without success; however, it has made no move to challenge the Ministry's decision in the courts. It is unclear whether the Unification Church maintained a presence in the country during the year.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights, and the Government generally respects them in practice. There are no governmental barriers to domestic and international travel or emigration.

Some human rights organizations continued to assert that the Government has pressured several Basarwa (Bushmen) communities within the Central Kalahari Game Reserve (CKGR) into relocating to partially built settlements outside of the Reserve (see Section 5). Government officials maintained that the "voluntary" resettlement was necessary in order to provide the Basarwa with better public services and to avoid conflicts between wildlife and humans within the CKGR. When the Basarwa arrived at the new settlements, beginning in 1995, services and facilities were substandard or nonexistent. Although conditions later improved, they remain very basic. The Government permits relocated Basarwa to return to the CKGR but does not provide full services within the reserve. On August 10, the Government announced that beginning in 2002, all services to Basarwa remaining in the CKGR would be cut off (see Section 5). While some international NGO's reported that government game wardens abused the Basarwa in the CKGR, local NGO's refuted that claim, noting that the Wildlife Department had enacted new policies.

The law provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperates with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The Government has maintained a policy of considering asylum requests only from refugees from bordering countries; although in practice, the Government often considers refugee applications from Angolans. Although the Government sometimes held newly arrived refugees and asylum seekers in local jails until they could be interviewed by BCR or UNHCR officials, it transferred persons granted refugee status to the Dukwe Refugee Camp, pending resettlement or voluntary repatriation (see Section 1.d.). There were 3,800 refugees at Dukwe by year's end; they were primarily from Namibia, Angola, and Somalia. At year's end, five refugees were being held in "protective custody" in Mahalapye Prison (see Section 1.d.). The Government strictly applies a policy of first asylum. Refugee applicants who are unsuccessful in obtaining asylum are allowed to remain at Dukwe until the Government refers their cases to the UNHCR for resettlement; however, in some sensitive cases, the Government will use deportation. Such was the case with a Kenyan national who was declared persona non

grata and almost deported; however, a UNHCR intervention prevented the deportation.

There were reports that BDF soldiers at Dukwe beat and abused Dukwe residents (see Section 1.c.). One refugee applicant claimed that BDF soldiers beat him in December 2000 for allegedly stealing a bag of sugar. The refugee applicant received medical treatment for his injuries. The Acting Station Commander at Dukwe has stated that his office is investigating the case, but no charges were filed by year's end.

More than 2,500 refugees from the Caprivi Strip in neighboring Namibia have fled to the country since 1998. Many were armed and linked to the ethnically based opposition groups based in the Caprivi Strip. Male refugees linked to such groups requested asylum based on their claim that they were being forced into the Namibian army to fight in the Democratic Republic of the Congo. The Government provided first asylum to all such persons. In consultation with the UNHCR in 1999, the Government began negotiations with the Government of Namibia to facilitate the voluntary return of Namibian refugees. In 1999 1,375 persons returned voluntarily to Namibia. In 2000 only five persons returned voluntarily, as the UNHCR experienced problems obtaining permission from the Namibian Government to return other such persons. In May approximately 500 Namibians at Dukwe expressed willingness to be repatriated, and the UNHCR assisted with negotiations between the Governments of Botswana and Namibia for their return. At year's end, the three parties were close to completion of a tripartite document that would govern the refugees' voluntary return. In 1999 the Government detained members of a Caprivi separatist group who had fled into the country after a military offensive in Katima Mulilo in Namibia. The group's leader, Meshake Muyongo, was resettled in a third country. Of Muyongo's group of 15 Democratic Turnhalle Alliance (DTA) leaders and their families who feared for their safety in Namibia, 8 were awaiting adjudication of their resettlement applications by year's end.

During 2000 the Government's Refugee Advisory Committee, which includes a UNHCR representative, found that 19 Namibian asylum seekers failed to qualify for asylum. In June 2000, 1 of the 19 accused the Government of unfair detention and violations of human rights and successfully challenged his detention in court (see Section 1.d.). In September 2000, the Government--at the request of the Government of Namibia--filed for the extradition of 15 of these individuals, 13 of whom appeared in court (one was ill, and another fled). The 13 were alleged to have participated in the 1999 attacks in Katima Mulilo, Namibia. The BCHR opposed the extradition, arguing that the defendants could not receive a fair and impartial trial in Namibia, and that they faced possible torture upon confinement in Namibian prisons. On September 20, a magistrate did not find the BCHR's evidence persuasive and ruled that the 13 did not have a legitimate fear of persecution upon their return. An appeal of the ruling was pending at year's end. The 18 were being detained at various local jails at year's end (see Section 1.d.).

There were no reports of the forced return of persons to a country where they feared persecution.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal adult (18 years of age) suffrage. The President is elected by the National Assembly and is limited to two 5-year terms in office. Members of the BDP have held a majority of seats in the National Assembly, and as a result also the presidency, continuously since independence.

Elections for the National Assembly were held in 1999 and generally were regarded as largely free and fair by domestic and international observers, despite preferential access for BDP candidates during much of the campaign to state-owned media including state-owned radio, the sole domestic source of news for most of the rural population (see Section 2.a.), and despite press reports of large anonymous campaign contributions to the ruling party, purportedly by international diamond interests. The BDP increased its majority in the National Assembly from 31 to 37 of 44 seats, thereby ensuring the election of its presidential candidate, incumbent President Mogae. Of the 7 seats won by opposition parties in 1999, the Botswana National Front (BNF) won 6, and the Botswana Congress Party (BCP) won 1 seat.

The House of Chiefs, an advisory body with limited powers, is restricted constitutionally to the eight "principal tribes" of the majority Tswana ethnic group and four elected chiefs representing smaller tribes, including the Bakalanga, Lozi, Humbukush, and Bakgalagadi. Consequently other groups, for example, the Basarwa, Herero, Baloi, or Bayei, are not represented there. Given the limited authority of the House of Chiefs, the impact of excluding other groups of citizens is largely symbolic, but some nonethnic Tswana view it as important in principle (see Section 5). In December the Government released a policy paper recommending constitutional amendments to make the House of Chiefs more inclusive and ethnic-neutral. The paper is expected to be considered by the Parliament in 2002. Members of the National Assembly are required to speak English.

There are 406 district governments with elected councilors, but they have no fiscal autonomy and must rely on the central Government for revenue.

The percentage of women in government or politics does not correspond to their percentage of the population; however, the 1999 elections doubled the number of women serving in the National Assembly, from 4 to 8 of 44 members. The number of women serving in the cabinet also increased from 3 to 5 of 15 members. Of the 13 High Court justices, 1 is a woman.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups, including the BCHR, generally operate without government restriction, investigating and publishing their findings on human rights cases. Government officials are usually cooperative and responsive to their views; however, some groups complain that the Government's cooperation is designed mainly to mute criticism and does not result in improved human rights conditions in their view. Emang Basadi Women's Association and Women Against Rape are active on issues concerning women's rights, particularly rape and domestic violence. The Metlhaetsile Women's Information Center dissolved during the year (see Section 5).

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution forbids governmental discrimination on the basis of ethnicity, race, nationality, creed, sex, or social status, and the Government respects these provisions in practice. However, neither the Constitution nor the law prohibits discrimination by private persons or entities.

Women

Domestic violence against women remains a serious problem. Under customary law and in common rural practice, men have the right to "chastise" their wives. Police rarely are called to intervene in cases of domestic violence. Reports of sexual exploitation, abuse, and criminal sexual assault are increasing, and public awareness of the problem generally is growing. The national police force has begun training officers in handling domestic violence problems to make them more responsive in such cases. Although the Government has become far tougher in dealing with criminal sexual assault, societal attitudes toward other forms of domestic violence remain lenient. Half the murders of women were linked to histories of domestic violence. Human rights activists estimate that 6 women in 10 are victims of domestic violence at some time in their lives.

Rape is another serious problem, and the Government acknowledged in 1999 that, given the high incidence of HIV/AIDS, sexual assault has become an even more serious offense. By law the minimum sentence for rape is 10 years, with the minimum increasing to 15 years with corporal punishment if the offender is HIV-positive, and to 20 years with corporal punishment if the offender knew of his or her HIV status. In 1999 a High Court ruled unconstitutional a provision in the law that allowed the detention of rape suspects without bail. The law does not address the issue of marital rape. A 1999 study of rape by the police service urged police to develop improved methods of rape investigation, including the use of DNA tests in all rape cases. The police force purchased new equipment, and officers were trained to use it during the year. Women's groups acknowledged an improvement in the treatment of alleged victims by police officials during rape investigations; however, they noted that police still lack basic investigative knowledge of rape cases.

Sexual exploitation and harassment continue to be problems as well, with men in positions of authority, including teachers, supervisors, and older male relatives, pressuring women and girls to provide sexual favors. Greater public awareness and improved legal protection have led more victims of domestic violence and sexual assault to report incidents to the authorities. In 1999 the Women's Affairs Department submitted the Report on the Study of Socio-Economic Implications of Violence Against Women in Botswana to the Attorney General's office, which is working with other ministries to further study these problems. In May the Department held a national workshop on violence toward women and issued another report on using an integrated approach among all interested parties to gender-based violence.

Women legally enjoy the same civil rights as men; however, in practice societal discrimination persists. A number of traditional laws enforced by tribal structures and customary courts restrict women's property rights and economic opportunities. A woman married under traditional law or in "common property" is held to be a legal minor, requiring her husband's consent to buy or sell property, apply for credit, and enter into legally binding contracts. Under the law, women married under an intermediate system, referred to as "in community of property," are permitted to own immovable property in their own names; however, their husbands still retain considerable control over jointly held assets of the marriage. Moreover, the law also stipulates that neither

spouse can dispose of joint property without the written consent of the other party.

Women have, and increasingly are exercising, the right to marriage "out of common property," in which case they retain their full legal rights as adults. Polygyny still is legal under traditional law with the consent of the first wife, but it rarely is practiced. In 1998 consultants submitted to the Labor Ministry a report identifying provisions of existing law that potentially discriminate against women. The Government responded by amending the Affiliation Proceedings Act in 1999 to make it possible for a person other than the mother of a child born out of wedlock to institute proceedings for the maintenance of the child, and by amending the Public Service Act in 2000 to recognize sexual harassment as misconduct carrying penalties under the Act.

Well-trained urban women enjoy growing entry level access to the white-collar job market, but the number of opportunities decrease sharply as they rise in seniority. Discrimination against women is most acute in rural areas where women engaged primarily in subsistence agriculture have weak property rights.

Young women do not have access to military or national service training. Military service is voluntary for men only and available to very few young women who serve as clerical workers. The Government abolished its national service program in 2000, a program that previously allowed male and female high school graduates to serve in government departments, mostly in rural areas. In 2000 government officials announced that there are no plans to recruit women into the BDF, due to infrastructure concerns such as lack of adequate living quarters and training facilities that made integration impracticable; the statement prompted women's rights activists to claim a denial of equal opportunity. In 2000 Parliament passed a resolution calling for young women to be allowed to serve in the BDF "as soon as practicable."

The Government and interested NGO's meet regularly to implement the long-term plan of action described in the National Policy on Women. The plan identifies six critical areas of concern, prioritized as follows: (1) women and poverty, (2) women and powersharing and decisionmaking, (3) education and training of women, (4) women and health, (5) the girl child, and (6) violence against women. The Women's Affairs Department of the Ministry of Labor and Home Affairs, in conjunction with the U.N. Development Program, developed the Program Support Document (PSD) in 1997, which provides a framework for implementation of the national policy on women through 2002. Its five target areas include: (1) institutional strengthening at the national level, (2) advocacy and social mobilization, (3) institutional strengthening of NGO's, (4) research and information sharing, and (5) economic empowerment. The Women's Affairs Department is expected to release a report on progress in the target areas in 2002.

A number of women's organizations have emerged to promote the status of women. The Government has entered into a dialog with many of these groups. While some women's rights groups reportedly felt that the Government has been slow to respond concretely to their concerns, women's NGO's state that they are encouraged by the direction of change and by the increasingly collaborative relationship with government authorities. Major women's NGO's include the Emang Basadi Women's Association, which promotes the social, economic, and legal status of women and the Botswana Council of Women. The Methaetsile Women's Information Centre, which provided legal assistance to poor women, dissolved during the year; however, it was trying to reorganize under a different name at year's end.

Children

The rights of children are addressed in the Constitution and the Children's Act. Under the law, the country has a court system and social service apparatus designed solely for juveniles. The Government launched a 10-year program of action for children in 1997, incorporating the seven major global goals identified at the 1990 U.N. World Summit for Children. In 1996 the Ministry of Labor and Home Affairs transferred responsibility for children to the Social Welfare Department in the Ministry of Local Government, Lands, and Housing. Laws pertaining to children continued to be under review to align them with the U.N. Convention on the Rights of the Child. The Adoption Act also continued to be reviewed to ensure that adopted children are provided for and not exploited as labor.

The Government provides 7 years of free primary education for children, although attendance is not compulsory. Government estimates of the proportion of children who never attend school have ranged from 10 to 17 percent, and fewer than 20 percent of children complete secondary school; school attendance and completion rates are highest in urban areas, and lowest in remote rural areas, especially those inhabited chiefly by Basarwa (San or Bushmen). However, in some cases, girls are denied schooling because of religious or customary beliefs. The Government continued to allocate the largest portion of its operating expenditures to the Ministry of Education, and the second-largest portion to the Ministry of Local Government, Lands, and Housing, which administered primary education. It also continued to allocate a large part of its investment expenditures to construct primary and secondary schools, so children have ready access to education. The literacy rate is 69 percent: 70 percent for females and 67 percent for males.

It was estimated in 2000 that 38.5 percent of adults between the ages of 15 and 49 are infected with HIV/AIDS, and due largely to deaths from HIV/AIDS, 78,000 orphans were reported by UNICEF. Increasing numbers of children, mostly believed to be orphans, were observed begging or engaging in prostitution in urban areas. Relatives denied orphans infected with HIV/AIDS their inheritance rights.

There is no societal pattern of abuse against children, although incest and other forms of child abuse have received increased attention from the media and from local human rights groups.

The problem of sexual harassment of students by teachers is a national concern. Reports of rape and sexual assault of young women, and cases of incest and "defilement" of young girls appear with greater frequency in the news. The age of sexual consent is 16. Child prostitution and pornography are criminal offenses, and the law stipulates a 10-year minimum sentence for "defilement" of persons under 16 years of age.

Intergenerational sex (sexual relations between older men and girls) and the problems of teenage pregnancy caused by older men received extensive media attention during the year.

Persons with Disabilities

Employment opportunities for persons with disabilities remained limited. The Government does not require accessibility for public buildings and public conveyances for persons with disabilities, and the NGO community only recently has begun to address the needs of persons with disabilities. The Government has a national policy that provides for integrating the needs of persons with disabilities into all aspects of government policymaking. The Government funded NGO's that provide rehabilitation services and supported small-scale work projects by workers with disabilities.

Indigenous People

The Basarwa (also known as San), who now inhabit chiefly the Kalihari Desert, are the earliest known inhabitants of the country and were the only inhabitants until Bantu groups arrived during the 16th century. They are physically, linguistically, and culturally distinct from the rest of the population. They remain economically and politically marginalized; they have lost access to their traditional land in fertile regions of the country and are vulnerable to exploitation by their non-Basarwa neighbors. Their isolation, ignorance of civil rights, and lack of political representation have stymied their progress. The estimated 52,000 to 55,000 Basarwa persons represent approximately 3 percent of the country's total population. Although the Basarwa traditionally were hunter-gatherers, most Basarwa now are employed as agricultural workers on farms or at cattle posts belonging to other ethnic groups. The formation of the 20,000 square mile Central Kalahari Game Reserve (CKGR) by the colonial government in 1961 on traditional Basarwa lands set the stage for conflict between the Basarwa's pursuit of their traditional way of life and wildlife conservation. The Government in the past followed a policy of prohibiting human habitation in the CKGR with the goal of wildlife preservation, but it has made accommodation for the estimated 1,000 to 3,000 Basarwa who still pursue hunting and gathering there. The Government has provided very limited social services within the CKGR and has encouraged those living there to leave the reserve for permanent settlements; there were some reports that the Government sometimes forced Basarwa to leave the reserve (see Section 2.d.). On August 10, partially in response to pressure from international NGO's, the Government announced that it would cut off all remaining services to those still in the CKGR beginning in January 2002, citing prohibitive costs as the reason. The ultimatum highlights the fact that the Government has made little real progress since 1996 when international attention was focused on the problem of resettling Basarwa living in the CKGR. Both the Basarwa and the Government are seeking out concerned NGO's to assist with the resettlement process and to address the larger issue of improving the Basarwa's standard of living without sacrificing what remains of their traditional way of life.

National/Racial/Ethnic Minorities

Well over half of the country's population belong to the Tswana ethnic group, of which the Constitution recognizes eight principal tribes, and which has a tradition of peacefully coexisting with nonethnic-Tswana groups. Some nonethnic-Tswana groups are more numerous than the Tswana in some rural areas of the country: The Kalanga and Lozi in areas of the north; the Bayei and Herero in the Okavango Delta region; and the Basarwa in the arid west. There also are communities of persons of Asian and European descent.

Apart from the lack of schooling in their own languages and their present lack of representation in the House of Chiefs (see Section 3), the country's nonethnic-Tswana communities are not subject to discrimination by the State. Societal discrimination also is limited. Inter-marriage between Tswana and nonethnic-Tswana persons is common. Urban neighborhoods are not ethnically segregated. There generally is little correlation between income and ethnicity among persons of African descent; however, many persons of Asian and European

descent are prominent in the commercial sector.

Section 6 Worker Rights

a. The Right of Association

The Constitution provides for the right of association. In practice all workers are free to join or organize unions of their own choosing. Government employees are permitted to organize their own unions. The industrial or wage economy is small, and unions are concentrated largely in mineral extraction and to a lesser extent in the railway and banking sectors. There is only one major confederation, the Botswana Federation of Trade Unions (BFTU), but there are no obstacles to the formation of other labor federations. In November the BFTU and the Manual Workers' Union merged into one union. During the year, the Government authorized the Civil Service to organize its own union; however, the union was not established by year's end.

Unions are independent of the Government and are not closely allied with any political party or movement. Unions may employ full-time administrative staff, but the law requires elected union officials to work full time in the industry that the union represents. This rule severely limits union leaders' professionalism and effectiveness, and has been criticized by the International Confederation of Free Trade Unions (ICFTU).

The law also severely restricts the right to strike. Legal strikes are theoretically possible only after an exhaustive arbitration process. Sympathy strikes are prohibited. In August a strike by employees of the Botswana Diamond Valuing Corporation was deemed legal by the court; however, the court ruled the strike premature, ordered the workers back to work, and directed the parties into arbitration before the strike could continue. There were no other legal strikes during the year.

Unions may join international organizations, and the BFTU is affiliated with the ICFTU. The Minister of Labor must approve any affiliation with an outside labor movement, but unions may appeal to the courts if an application for affiliation is refused.

b. The Right to Organize and Bargain Collectively

The Constitution provides for collective bargaining for unions that have enrolled 25 percent of a labor force. In reality only the mineworker and diamond sorter unions may have the organizational strength to engage in collective bargaining.

Workers may not be fired for union-related activities. Dismissals on other grounds may be appealed to labor officers or civil courts, but labor offices rarely do more than order 2 months' severance pay.

The country has only one export processing zone, located in the town of Selebi-Phikwe, and it is subject to the same labor laws as the rest of the country.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, and there were no reports that such practices occurred.

The Government does not prohibit forced and bonded labor by children; however, there were no reports that such practices occurred.

d. Status of Child Labor Practices and Minimum Age for Employment of Children

Only an immediate family member may employ a child age 13 or younger, and no juvenile under age 15 may be employed in any industry. Only persons over age 16 may be hired to perform night work, and no person under age 16 is allowed to perform hazardous labor, including mining. District and municipal councils have child welfare divisions, which are responsible for enforcing child labor laws. The law provides that adopted children are not exploited as labor and protects orphans from exploitation as labor or coercion into prostitution. Because research on child labor is limited, it is difficult to state whether child labor laws are enforced effectively. However, there is general agreement among the Labor Commissioner, officials of the Ministry of Local Government, Lands, and Housing, and UNICEF that the child labor problem is limited to young children in remote areas who work as cattle tenders, maids, or babysitters.

The Government launched a 10-year program of action for children in 1997; however, implementation has

proceeded slowly.

The Government does not prohibit forced and bonded labor by children; however, such practices are not known to occur.

e. Acceptable Conditions of Work

The minimum daily wage for most full-time labor in the private sector was \$3.15 (17 pula), which remained less than 50 percent of what the Government calculates is necessary to provide a decent standard of living for a family of five. Wage policy is determined by the Cabinet, which decides on recommendations made by the National Economic, Manpower and Incomes Committee (NEMIC), which consists of government, BFTU, and private sector representatives. The Ministry of Labor is responsible for enforcing the minimum wage, and each of the country's districts has at least one labor inspector. Civil service disputes are referred to an ombudsman for resolution. Private labor disputes are mediated by labor commissioners; however, an insufficient number of commissioners has resulted in 1 to 2 year backlogs in resolving such disputes. In 2000 the Ministry of Labor received 9,172 labor disputes and referred a small but undisclosed number of them for review by the Industrial Court, which had a 9 to 18 month backlog at year's end.

Formal sector jobs almost always pay well above minimum wage levels. Informal sector employment, particularly in the agricultural and domestic service sectors, where housing and food are included, frequently pays below the minimum wage. There is no mandatory minimum wage for domestic workers, and the Ministry of Labor no longer recommends a minimum wage for them.

The law permits a maximum 48-hour workweek, exclusive of overtime, that is payable at time and a half for each additional hour. Most modern private sector jobs have a 40-hour workweek; however, the public sector has changed to a 48-hour workweek.

The law provides that workers who complain about hazardous conditions may not be fired. However, the Government's ability to enforce its workplace safety legislation remains limited by inadequate staffing and unclear jurisdictions among different ministries. Nevertheless, employers generally provide for worker safety, with an occasional exception in the construction industry.

Illegal immigrants from poorer neighboring countries, primarily Zambians and Zimbabweans, are exploited easily in labor matters, since they would be subject to deportation if they filed grievances against their employers.

f. Trafficking in Persons

The law does not prohibit trafficking in persons, although penal code provisions cover such related offenses as abduction and kidnaping, slave trafficking, compulsory labor, and procuring women and girls for the purpose of prostitution. There were no reports that persons were trafficked to, from, or within the country.